

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

U.S. Environmental Protection  
Agency, Region 8  
1595 Wynkoop St.  
Denver, CO 80202-1189



9590 9402 2418 6249 0754 17

2. Article Number (Transfer from service label)

7016 2140 0000 5078 5217

PS Form 3811, July 2015 PSN 7530-02-000-9053

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

X.

☐ Agent  
☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes  
If YES, enter delivery address below: ☐ No

3. Service Type

- |  |   |
|--|---|
| <input type="checkbox"/> Adult Signature                         | <input type="checkbox"/> Priority Mail Express®                     |
| <input type="checkbox"/> Adult Signature Restricted Delivery     | <input type="checkbox"/> Registered Mail™                           |
| <input checked="" type="checkbox"/> Certified Mail®              | <input type="checkbox"/> Registered Mail Restricted Delivery        |
| <input type="checkbox"/> Certified Mail Restricted Delivery      | <input type="checkbox"/> Return Receipt for Merchandise             |
| <input type="checkbox"/> Collect on Delivery                     | <input type="checkbox"/> Signature Confirmation™                    |
| <input type="checkbox"/> Collect on Delivery Restricted Delivery | <input type="checkbox"/> Signature Confirmation Restricted Delivery |
| <input type="checkbox"/> Collect on Delivery Restricted Delivery |   |

Domestic Return Receipt

UNITED STATES DISTRICT COURT  
DISTRICT OF NORTH DAKOTA  
WESTERN DIVISION

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RED RIVER SUPPLY, INC.

Plaintiff,

vs.

NATIONAL OILWELL VARCO, L.P.,  
NATIONAL OILWELL VARCO, INC., and  
NATIONAL OILWELL VARCO HOLDINGS  
LLC

Defendants.

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Case No.: 1:17-cv-126

**NOTICE OF SUBPOENA DUCES  
TECUM TO UNITED STATES  
ENVIRONMENTAL PROTECTION  
AGENCY**

TO: DEFENDANTS NATIONAL OILWELL VARCO, L.P., NATIONAL OILWELL  
VARCO, INC., and NATIONAL OILWELL VARCO HOLDINGS LLC, BY AND  
THROUGH THEIR ATTORNEYS:

PLEASE TAKE NOTICE that under Fed. R. Civ. P. 45, the Plaintiff intends to  
immediately serve the attached subpoena duces tecum on United States Environmental  
Protection Agency.

Dated: February 14, 2018.

**VOGEL LAW FIRM**

/s/ Robert J. Pathroff

BY: Robert J. Pathroff (#5579)

US Bank Building

200 North 3rd Street, Suite 201

PO Box 2097

Bismarck, ND 58502-2097

Telephone: 701.258.7899

Email: [rpathroff@vogellaw.com](mailto:rpathroff@vogellaw.com)

ATTORNEYS FOR PLAINTIFF RED RIVER  
SUPPLY, INC.

UNITED STATES DISTRICT COURT

for the  
District of North Dakota

Red River Supply, Inc.

Plaintiff

National Oil Well Varco, L.P.,  
National Oil Well Varco, Inc., and  
National Oil Well Varco Holdings LLC  
Defendant

Civil Action No. 1:17-cv-126

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS  
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION 8, 1595 WYNKOOP STREET, DENVER CO 80202-1129

(Name of person to whom this subpoena is directed)

☒ **Production:** YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material:  
See Attachment A.

<b>Place:</b> Vogel Law Firm Attn: Robert J. Pathroff 200 N. 3rd Street, Ste. 201, Bismarck, ND 58501	<b>Date and Time:</b> March 15, 2018 2:00 p.m. CST
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☐ **Inspection of Premises:** YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

<b>Place:</b>	<b>Date and Time:</b>
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The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 2/14/18

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party) Red River Supply, Inc., who issues or requests this subpoena, are:

Robert J. Pathroff, Vogel Law Firm, 200 N. 3rd Street, Ste. 201, Bismarck, ND 58501, (701) 258-7899, rpathroff@vogellaw.com

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 1:17-cv-126

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

I received this subpoena for *(name of individual and title, if any)* \_\_\_\_\_  
on *(date)* \_\_\_\_\_.

☐ I served the subpoena by delivering a copy to the named person as follows: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I returned the subpoena unexecuted because: \_\_\_\_\_  
\_\_\_\_\_.

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of  
\$ \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_  
\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc.:

**Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**

**(c) Place of Compliance.**

**(1) For a Trial, Hearing, or Deposition.** A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
  - (i) is a party or a party's officer; or
  - (ii) is commanded to attend a trial and would not incur substantial expense.

**(2) For Other Discovery.** A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

**(d) Protecting a Person Subject to a Subpoena; Enforcement.**

**(1) Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

**(2) Command to Produce Materials or Permit Inspection.**

**(A) Appearance Not Required.** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

**(B) Objections.** A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

**(3) Quashing or Modifying a Subpoena.**

**(A) When Required.** On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

**(B) When Permitted.** To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

**(C) Specifying Conditions as an Alternative.** In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

**(e) Duties in Responding to a Subpoena.**

**(1) Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

**(A) Documents.** A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

**(B) Form for Producing Electronically Stored Information Not Specified.** If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

**(C) Electronically Stored Information Produced in Only One Form.** The person responding need not produce the same electronically stored information in more than one form.

**(D) Inaccessible Electronically Stored Information.** The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

**(2) Claiming Privilege or Protection.**

**(A) Information Withheld.** A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

**(B) Information Produced.** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

**(g) Contempt.**

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

UNITED STATES DISTRICT COURT  
DISTRICT OF NORTH DAKOTA  
WESTERN DIVISION

RED RIVER SUPPLY, INC.

Plaintiff,

vs.

NATIONAL OILWELL VARCO, L.P.,  
NATIONAL OILWELL VARCO, INC., and  
NATIONAL OILWELL VARCO HOLDINGS  
LLC

Defendants.

Case No.: 1:17-cv-126

**SUBPOENA TO PRODUCE  
DOCUMENTS, INFORMATION, OR  
OBJECTS OR TO PERMIT  
INSPECTION OF PREMISES IN A  
CIVIL ACTION**

**ATTACHMENT A**

The following documents are requested:

The entire file of the US Environmental Protection Agency ("EPA") relating to the response to, and cleanup of, the incident of July 22, 2014 at the property of Red River Supply, Inc., located at address 1202 E. Broadway, Williston, North Dakota 58801, which is believed to have been assigned National Response Center Incident ID Nos. 1089908 and 1089921, including, but not limited to, all internal correspondence or emails by and between EPA staff (including, but not limited to, Paul Peronard), all external correspondence or emails by and between EPA staff (including, but not limited to, Paul Peronard) and any other person or entity, all lab reports and results, all test reports and results, all plans, all reports or memoranda, all studies, all official documents of the EPA, and all records of the activity of EPA staff (including, but not limited to, Paul Peronard), which in any way relate to the aforementioned matter.

Dated: February 14, 2018.

**VOGEL LAW FIRM**

/s/ Robert J. Pathroff

BY: Robert J. Pathroff (#5579)

US Bank Building

200 North 3rd Street, Suite 201

PO Box 2097

Bismarck, ND 58502-2097

Telephone: 701.258.7899

Email: [rpathroff@vogellaw.com](mailto:rpathroff@vogellaw.com)

ATTORNEYS FOR PLAINTIFF RED RIVER  
SUPPLY, INC.

UNITED STATES DISTRICT COURT  
DISTRICT OF NORTH DAKOTA  
WESTERN DIVISION

RED RIVER SUPPLY, INC.

Plaintiff,

vs.

NATIONAL OILWELL VARCO, L.P.,  
NATIONAL OILWELL VARCO, INC., and  
NATIONAL OILWELL VARCO HOLDINGS  
LLC

Defendants.

Case No.: 1:17-cv-126

**AFFIDAVIT OF SERVICE  
BY CERTIFIED MAIL  
RECEIPT NO.  
70162140000050785217**

STATE OF NORTH DAKOTA    )  
  )   SS  
COUNTY OF BURLEIGH        )

Andrew Eggebrecht, being first duly sworn, does depose and state that he is of legal age and not a party to the above-entitled matter.

On February 15, 2018, Affiant deposited in the United States Post Office at Bismarck, North Dakota, a true and correct copy of the following documents:

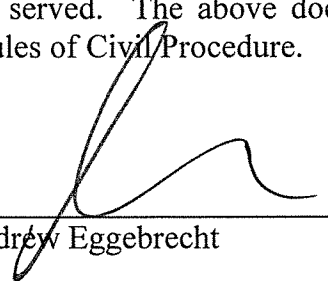
1.    **SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR  
OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL  
ACTION;**
2.    **ATTACHMENT A.**

A copy of the foregoing was securely enclosed in an envelope with postage duly prepaid and addressed as follows:

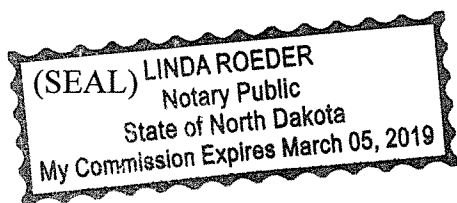
U.S. Environmental Protection Agency  
Region 8  
1595 Wynkoop Street  
Denver, CO 80202-1129




To the best of Affiant's knowledge, the address above given was the actual post office address of the party intended to be so served. The above document was duly mailed in accordance with the provisions of the Rules of Civil Procedure.

  
\_\_\_\_\_  
Andrew Eggebrecht

Subscribed and sworn to before me this 15th day of February, 2018.



  
\_\_\_\_\_  
Notary Public